IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WP(C).No. 11210 of 2007(H)

EP.125/2006 IN OS.66/2005 of PRL.SUB COURT, IRINJALAKUDA

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PETITIONER:

M.V.JACOB, S/O.VARGHESE, AGED 42 YEARS,
MECHERY HOUSE, PALAPPILLY, MELOOR VILLAGE,
MUKUNDAPURAM TALUK.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA

RESPONDENT:

FEDERAL BANK LTD., ALUVA REP.BY SENIOR
MANAGER, CHALAKKUDI BRANCH, CHALAKKUDI.

BY SC SRI.V.JAYAPRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 11210 of 2007 H

JUDGMENT

The petitioner is the third judgment debtor in E.P.No.125/06 in O.S.No.66/05 on the file of the Sub Court, Irinjalakuda. In execution of the decree in the said suit, the property is proclaimed for sale, vide Exhibit P2. The petitioner has filed this writ petition praying for Exhibit P2 sale proclamation being set aside and also praying for an opportunity to discharge the debt in instalments.

2. Heard counsel for the petitioner dispensing with notice to the respondent/decree holder.

3. It is submitted that the petitioner/judgment debtor has not filed any objection to the draft sale proclamation, pursuant to receipt of Rule 66 notice, except an application for leave to discharge the debt in instalments. The grievance of the petitioner is that without considering that

request, the court below has approved the draft sale proclamation and vide Exhibit P2, the property is proclaimed for sale. The grievance of the petitioner appears to be genuine, as it does not appear that the petitioner's request to discharge the debt in instalments was considered, while approving the draft sale proclamation.

In the result, I dispose of this writ petition granting the petitioner leave to discharge the debt in instalments by making payments at the rate of Rupees one lakh per month, beginning with 25th April, 2007. In case payment of any one instalment, which falls due on the 25th of each calendar month, is not paid, the petitioner shall forfeit the benefit of discharging the debt in instalments and the entire balance amount shall become payable forthwith.

30th March, 2007 (K.P.Balachandran, Judge)

tkv